

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

April 24, 2006

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Nicholson, Associate Justice; Butz, Associate Justice; and Facey, bailiff.

C046886 STOCKTON MORTGAGE, INC. et al. v. ZINNEMANN et al.
C046913 STOCKTON MORTGAGE, INC. et al. v. ZINNEMANN et al.

Cause called. William A. Schuckman argued for appellants. Amy J. Winn, Deputy Attorney General, argued for respondents. Cause submitted.

At 10:08 a.m., the court recessed. At 10:10 a.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Hull, Associate Justice.

C049647 THE PEOPLE v. PERKINS

Cause called. J. Peter Axelrod, court appointed counsel, argued for appellant. Laura Wetzel Simpton, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:34 a.m., the court recessed. At 10:38 a.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

C050566 DANIEL V. v. THE SUPERIOR COURT OF SAN JOAQUIN COUNTY and THE PEOPLE

C051071 JAMIE K. v THE SUPERIOR COURT OF SAN JOAQUIN COUNTY and THE PEOPLE

Cause called. Edmund J. Shaver argued for petitioner Daniel V. Stephen G. Herndon, Deputy Attorney General, argued for real party in interest. Nelson V. Lu, county public defender, argued for petitioners, Jamie K. and Daniel V. Cause submitted.

C051983 JAMIE K. v. THE SUPERIOR COURT OF SAN JOAQUIN COUNTY and THE PEOPLE

Cause called. Nelson C. Lu, county public defender, argued and Vickie L. Delph appeared only for petitioner. Stephen G. Herndon, Deputy Attorney General, argued for real party in interest. Cause submitted.

At 11:07 a.m., the court recessed. At 2:02 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

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C047640 SCHOENIG v. LEVIN

Cause called. Edward Friedberg, argued for appellant. John S. Gilmore argued for respondent. Cause submitted.

At 2:20 p.m., the court recessed. At 2:21 p.m., the court reconvened with Morrison, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

C050968 In re KERRY K., a Minor, on Habeas Corpus

Cause called. Chet Templeton, county public defender, argued and Arthur L. Bowie appeared only for petitioner. Marcia A. Fay, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:42 p.m., the court recessed until 9:30 a.m., Monday, May 15, 2006.

C048061 THE PEOPLE v. KAAKE (Not for Publication)

The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting this modification and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

BLEASE, Acting P.J.

I concur: Hull, J.

I concur in the result.

Sims, J.

C048480 THE PEOPLE v. SCHARF (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Nicholson, Acting P.J.

Butz, J.

C049119 THE PEOPLE v. ROBINSON (Not for Publication)

The judgment is modified... As modified, the judgment is affirmed.

ROBIE, J.

We Concur: Morrison, Acting P.J.

Butz, J.

April 25, 2006

C047540 THE PEOPLE v. GRAY (Not for Publication)

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Sims, J.

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April 25, 2006, continued

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|----------------|---|------------------------------|
| C048820 | THE PEOPLE v. ARCHIE
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Davis, J.
Raye, J. | (Not for Publication) |
| C049128 | THE PEOPLE v. GLASS
The judgment is affirmed.
ROBIE, J.
We Concur: Morrison, Acting P.J.
Butz, J. | (Not for Publication) |
| C049305 | THE PEOPLE v. SAUNDERS, JR.
The judgment is affirmed.
BUTZ, J.
We Concur: Blease, Acting P.J.
Robie, J. | (Not for Publication) |
| C049757 | THE PEOPLE v. ACOSTA
The judgment is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
Davis, J. | (Not for Publication) |
| C050096 | THE PEOPLE v. MARKHAM
The Penal Code section 1202.44 fine is stricken. As modified, the judgment is affirmed...
BUTZ, J.
We Concur: Nicholson, Acting P.J.
Robie, J. | (Not for Publication) |
| C050172 | THE PEOPLE v. GRANT
The judgment is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Butz, J. | (Not for Publication) |

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April 25, 2006, continued

- C048772 FINANCIAL PACIFIC INSURANCE COMPANY v. WEST COAST FIRE PROTECTION SYSTEMS CO. (Not for Publication)**
The judgment is reversed. Financial Pacific shall recover its costs on appeal. (Cal. Rules of Court, rule 27 (a).)
ROBIE, J.
I concur: Sims, J.
I respectfully dissent...
... For all of these reasons I would affirm the decision of the trial court.
Blease, Acting P.J.
- C049713 BESENTHAL v. EL PASO MERCHANT ENERGY CORPORATION et al. (Not for Publication)**
The judgment is dismissal as to defendant McKenzie is affirmed. The judgment of dismissal for defendant El Paso is reversed and the matter remanded to the trial court with directions to vacate its order granting summary adjudication to El Paso and to enter a new order denying summary adjudication on plaintiff's hostile work environment claim and granting summary adjudication on all other claims. Plaintiff is awarded her costs on appeal.
HULL, J.
We Concur: Raye, Acting P.J.
Robie, J.
- C050831 In re KAYLAH C.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. ROSE K. (Not for Publication)**
The August 31, 2005, orders of the juvenile court at the six-month review hearing are reversed... If there is no response of if the Blackfeet tribe determines the minor is not an Indian child, then the August 31, 2005, orders shall be reinstated.
DAVIS, J.
We Concur: Scotland, P.J.
Sims, J.
- C050842 In re C.P. et al.; EL DORADO COUNTY DEPARTMENT OF HUMAN SERVICES v. JESSICA C. et al. (Not for Publication)**
The orders of the juvenile court terminating the parental rights of appellants are affirmed.
CANTIL-SAKAUYE, J.
We Concur: Morrison, Acting P.J.
Hull, J.

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April 26, 2006

**C049819 In re SEAN B.; AMADOR COUNTY HEALTH AND HUMAN SERVICES
AGENCY v. SEAN S., et al. and SEAN B. (Not for Publication)**

The order of the juvenile court granting reunification services to the
minor's parents is reversed and the matter is remanded...

DAVIS, Acting P.J.

We Concur: Morrison, J.

Butz, J.

April 27, 2006

C043705 THE PEOPLE v. SCOTT et al. (Not for Publication)

The judgments are affirmed.

MORRISON, J.

We Concur: Davis, Acting P.J.

Nicholson, J.

C047573 THE PEOPLE v. STORYDECORTE (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Nicholson, Acting P.J.

Raye, J.

C049330 ROSSI, JR. v. ROSSI (CERTIFIED FOR PUBLICATION)

The order is affirmed. Respondent shall recover costs on appeal. (Cal.
Rules of Court, rule 27 (a).)

CANTIL-SAKAUYE, J.

We Concur: Blease, Acting P.J.

Morrison, J.

**C050631 In re D.P. et al.; SISKIYOU COUNTY HUMAN SERVICES DEPARTMENT v.
ANGELA P. (Not for Publication)**

The orders terminating parental rights are vacated, and the matter is
remanded to the juvenile court with directions to order HSD to comply with the
notice provisions of the ICWA... If, on the other hand, no response is received or
the tribe determines the minors are not Indian children, all previous findings and
orders shall be reinstated.

BUTZ, J.

We Concur: Sims, Acting P.J.

Morrison, J.

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April 27, 2006, continued

We Concur: Robie, J.
Butz, J.

DAVIS, Acting P.J.

The court examined the notice of appeal and determined that the order appealed from is nonappealable. Therefore, the appeal filed on April 5, 2006 is dismissed. (*Modica v. Merin* (1991) 234 Cal. App. 3d 1072.)

SCOTLAND, P.J.

We Concur: Blease, Acting P.J.
Cantil-Sakauye, J.

We Concur: Raye, Acting P.J.
Butz, J.

We Concur: Morrison, J.
Cantil-Sakauye, J.

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April 28, 2006, continued

**C046055 PRESTON PIPELINES, INC. v. JCW-CYPRESS HOME GROUP et al.
C047730 CARROLL v. JCW-CYPRESS HOME GROUP et al.**

(Not for Publication)

The judgment (dated January 28, 2004) is reversed with respect to the quantum meruit award in favor of plaintiff and against the owners, and we order the judgment modified...

... The case is remanded to the trial court for determination of those amounts. The parties shall bear their own costs on appeal from the attorney's fees order. (Cal, Rules of Court, rule 27(a)(4).)

SIMS, Acting P.J.

We Concur: Raye, J.

Cantil-Sakauye, J.

**C046575 NEVIS v. FILLMORE
C046575 H.B. ORCHARDS COMPANY, INC. v. FILLMORE et al.**

(Not for Publication)

The judgment in favor of H.B. Orchards to the extent it orders the release of the \$50,000 escrow deposit to H.B. Orchards is affirmed; in all other respects the judgment in favor of H.B. Orchard is reversed. The judgment in favor of Nevis is affirmed. Nevis shall recover his costs on appeal from Fillmore; Fillmore and H.B. Orchards shall bear their own costs. (Cal. Rules of Court, rule 27(a).)

MORRISON, J.

We Concur: Scotland, P.J.

Davis, J.

**C049231 HAYES, a Minor, etc. v. CALIFORNIA DEPARTMENT OF DEVELOPMENTAL
SERVICES et al. and ALTA CALIFORNIA REGIONAL CENTER**

(CERTIFIED FOR PUBLICATION)

The judgment is reversed. Hayes shall recover his costs on appeal. (Cal. Rules of Court, rule 27(a)(1).)

ROBIE, J.

We Concur: Davis, Acting P.J.

Cantil-Sakauye, J.

C049565 COUNTY OF SACRAMENTO v. MILLER (Not for Publication)

The judgment (order) is affirmed.

MORRISON, Acting P.J.

We Concur: Robie, J.

Butz, J.

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April 28, 2006, continued

C050374 HALL v. HISTORIC HOTEL BERRY et al. (Not for Publication)

The judgment (sustaining Khan's demurrer and dismissing the underlying complaint without leave to amend) is affirmed.

BUTZ, J.

We Concur: Morrison, Acting P.J.

Robie, J.

C048529 In re ANTHONY C.; THE PEOPLE v. ANTHONY C.

(CERTIFIED FOR PUBLICATION)

The judgment is reversed. Respondents are directed to discharge Anthony C. from confinement.

BLEASE, Acting P.J.

I concur: Robie, J.

I concur in parts I and II of the majority opinion, where the majority concludes Anthony's commitment was not supported by substantial evidence. I respectfully dissent from part III of the majority opinion, which concludes that a retrial in this case is barred...

Sims, J.

C050274

C050803 In re LINO B.; THE PEOPLE v. LINO B. (CERTIFIED FOR PUBLICATION)

In case No. C050274, the judgment is affirmed. In case No. C050803, the judgment (restitution order) is also affirmed.

BUTZ, J.

We Concur: Morrison, Acting P.J.

Robie, J.

C049287 THE PEOPLE v. BOBBIT

BY THE COURT:

Appellant's petition for rehearing is denied.

SIMS, Acting P.J.